

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

MILLENNIUM TGA, INC.,

Plaintiff,

v.

JOHN DOE,

Defendant.

CASE NO. 4:11-cv-4501

Judge: Honorable Judge Vanessa D. Gilmore

**PLAINTIFF’S UNOPPOSED MOTION FOR EXTENSION OF 26(F) JOINT
DISCOVERY CONFERENCE**

Plaintiff Millennium TGA, Inc., by and through its undersigned counsel, and pursuant to Southern District of Texas Local Rule (hereinafter “LR”) 7.8, hereby moves this Court for administrative relief for an order continuing the 26(f) Joint Discovery Conference for good cause.

For the reasons more fully explained below, and in the Declaration of Douglas M. McIntyre (“McIntyre Decl.”), attached hereto as Exhibit A, Plaintiff respectfully requests that this Court continue the 26(f) Joint Discovery Conference to **July 2, 2012**, or to a later date that is in accordance with this Court’s schedule. This extension is necessary because several Internet Service Providers (“ISPs”), including the Defendant’s ISP, Comcast Cable Communications (“Comcast”),¹ have filed objections to Plaintiff’s subpoenas issued in this case. As a result, they have not yet provided Plaintiff with the information necessary to ascertain the identity of the Defendant in this case. There is currently no known individual to meet and confer with at a 26(f)

¹ See ECF No. 1-1.

joint discovery conference. An extension is, therefore, necessary until the identity of the Defendant is ascertained.

FACTUAL BACKGROUND

On December 20, 2011, Plaintiff filed its Complaint against John Doe alleging copyright infringement and related claims of civil conspiracy and contributory infringement. (ECF No. 1.) The next day, Plaintiff filed a Motion for Leave to Take Expedited Discovery so Plaintiff could subpoena certain ISPs and eventually ascertain the identities of John Doe and his co-conspirators. (ECF No. 2.) The Court granted Plaintiff's discovery motion on February 9, 2012. (ECF No. 6.) Within a week, Plaintiff issued the subpoenas on the relevant ISPs. McIntyre Decl. ¶ 2. Several of the ISPs,² including John Doe's ISP, Comcast, objected to Plaintiff's subpoenas. McIntyre Decl. ¶ 3. The objecting ISPs have not provided Plaintiff with the information sought in the subpoenas. *Id.* Plaintiff filed a motion to compel Comcast's compliance with Plaintiff's subpoena with the court that issued the subpoenas. McIntyre Decl. ¶ 4; *see also Millennium TGA, Inc. v. John Doe*, No. 12-00150 (D.D.C. Mar. 7, 2012), ECF No. 1. Until the courts rule on Plaintiff's motions to compel compliance, Comcast will not provide Plaintiff with the information it seeks. McIntyre Decl. ¶ 4. Plaintiff, therefore, lacks the necessary information to identify, name and serve a defendant in this action. McIntyre Decl. ¶ 5.

DISCUSSION

Because there is no known Defendant with whom to meet and confer at the 26(f) joint discovery conference, Plaintiff requests an extension until Plaintiff is able to ascertain the identity of the Defendant. An extension will allow the District of Columbia court to rule on Plaintiff's motion to compel compliance, allow the ISPs to comply with Plaintiff's subpoena, and

² AT&T Internet Services, Comcast, Cebridge d/b/a Suddenlink Communications, Verizon Online, Comporium Communication and Telnet Worldwide.

allow Plaintiff to be able identify the Defendant and inform him or her of this litigation and the 26(f) conference. Until that time, a Rule 26(f) conference would be unproductive as only Plaintiff would be able to attend. Having only a single party attending would be contrary to the purpose of the *joint* conference. Fed. R. Civ. P. 26(f); *see also* LR 16.1 (“the Court will require attendance at conference ‘by an attorney who has the authority to bind that party regarding all matters . . .’” (citing 28 U.S.C. § 473(b)(2))). The Rule 26(f) conference should take place once both parties are able to appear and provide a representative that can bind that party.

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that this Court continue the 26(f) Joint Discovery Conference to **July 2, 2012**, or to a later date that is in accordance with this Court’s schedule.

Respectfully submitted,

MILLENNIUM TGA, INC.

DATED: March 12, 2012

By: **DOUGLAS M. MCINTYRE & ASSOCIATES**

/s/ Douglas M. McIntyre
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COUNSEL FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 12, 2012, all individuals of record who are deemed to have consented to electronic service are being served true and correct copy of the foregoing documents, and all attachments and related documents, using the Court's ECF system, in compliance with Local Rule 5.3.

/s/ Douglas M. McIntyre
DOUGLAS M. MCINTYRE